

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN SENATE JUNE 22, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2545

Introduced by Assembly Member De La Torre

February 19, 2010

An act to add Section 41127.9 to the Revenue and Taxation Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2545, as amended, De La Torre. ~~Emergency Telephone Users Surcharge Act: prepaid mobile telecommunications service. Prepaid communications services: taxes: fees: surcharges: report.~~

~~Existing provisions of the Warren-911-Emergency Assistance Act establish the number "911" as the primary emergency telephone number of use in the state. The existing Emergency Telephone Users Surcharge Act generally imposes a surcharge on amounts paid by every person in the state for intrastate telephone service that is imposed at a percentage rate, not less than 0.5% nor more than 0.75% as annually estimated to provide revenues sufficient to fund "911" emergency telephone system costs for the current fiscal year. Surcharge amounts are paid to the State Board of Equalization on a monthly basis by the telephone service supplier and are deposited into the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund. Under~~

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including telephone

corporations, except to the extent regulation of commercial mobile radio service is preempted by federal regulation.

~~This bill would require the PUC to open proceedings or expand the scope of existing proceedings to determine an equitable manner for collection of the surcharge from users of prepaid mobile telecommunications services, and would require the PUC to advise the board of its determination, within 60 days of the effective date of the bill, to conduct a public process to consult with, and hear comments from, interested parties, as described, for the purpose of developing recommendations for an equitable and uniform method of collecting state and local communications taxes, fees, and surcharges from prepaid communications end-user consumers, and to report those recommendations to the Legislature.~~

This bill would also make legislative findings and declarations regarding equitable contributions to the funding of ~~911 systems~~ *state and local communications services and programs* by consumers of prepaid ~~mobile telecommunications~~ *communications* services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (1) *Maintaining effective and efficient telecommunications*
- 4 *services, 911 systems, and telecommunications-related public*
- 5 *policy programs across the state benefits all citizens.*
- 6 (2) *Communications taxes, fees, and surcharges, including the*
- 7 *Emergency Telephone Users Surcharge, state public policy*
- 8 *program surcharges, and local 911 fees and utility user taxes are*
- 9 *important funding mechanisms to assist state and local*
- 10 *governments with the deployment of a variety of important*
- 11 *communications services and programs to the citizens of this state.*
- 12 (3) *Prepaid communications services are an important and*
- 13 *growing segment of the communications industry.*
- 14 (4) *Providers of communications services are required to collect*
- 15 *and remit communications taxes, fees, and surcharges on various*
- 16 *types of communication service revenues, as provided by existing*
- 17 *state or local law.*

1 (5) Under existing law there is a method for collecting
2 communications taxes, fees, and surcharges from postpaid
3 communications end-user consumers. However, there is no uniform
4 method for collecting communications taxes, fees, and surcharges
5 from prepaid end-user consumers.

6 (6) Consumers purchase prepaid communications services at
7 a wide variety of retail locations and other distribution channels,
8 as well as through service providers.

9 (7) To ensure equitable contributions to the funding of state
10 and local communications services and programs from end-user
11 consumers of prepaid communications services, there should be
12 standardization with respect to the method used to collect
13 communications taxes, fees, and surcharges from end-user
14 consumers of prepaid communications services.

15 (b) It is the intent of the Legislature in enacting this act to
16 provide for an interested parties process under the direction of
17 the Public Utilities Commission to develop recommendations for
18 an equitable and uniform method of collecting communications
19 taxes, fees, and surcharges from end-user consumers of prepaid
20 communications services. Because collection and administration
21 of communications taxes, fees, and surcharges falls within the
22 jurisdiction of multiple state and local public entities, and
23 establishing a uniform method of collecting these taxes, fees, and
24 surcharges from prepaid communications end-user consumers
25 could significantly affect a variety of industry sectors, it is the
26 intent of the Legislature that the interested parties process include
27 regularly scheduled meetings with, and opportunities to comment
28 from, stakeholders, including representatives from affected
29 government entities and industry sectors.

30 SEC. 2. Section 41127.9 is added to the Revenue and Taxation
31 Code, to read:

32 41127.9. (a) No later than 60 days after the effective date of
33 the act adding this section, the Public Utilities Commission shall
34 conduct a public process for the purpose of developing
35 recommendations for an equitable and uniform method of
36 collection for state and local government imposed communications
37 taxes, fees, and surcharges from prepaid communications end-user
38 consumers. This process shall consist of regularly scheduled
39 meetings and shall provide a reasonable opportunity to comment
40 on oral and written recommendations before they become final.

1 *The Public Utilities Commission shall report its recommendations*
2 *to the Legislature no later than 18 months from the date upon*
3 *which the interested parties process has convened.*

4 *(b) (1) For the purposes of this section, “communications taxes,*
5 *fees, and surcharges” means any and all taxes, fees, and*
6 *surcharges on communications services imposed or authorized by*
7 *the state or a local government, including, but not limited to, all*
8 *of the following:*

9 *(A) The State Emergency Telephone Users Surcharge (SETUS).*

10 *(B) The California High Cost Fund-A (CHCF-A) Administrative*
11 *Committee Fund Surcharge.*

12 *(C) The California High Cost Fund-B (CHCF-B) Administrative*
13 *Committee Fund Surcharge.*

14 *(D) The California Advanced Services Fund (CASF) Surcharge.*

15 *(E) The California Teleconnect Fund (CTF) Surcharge.*

16 *(F) The Deaf and Disabled Telecommunications Program*
17 *(DDTP) Surcharge.*

18 *(G) The Public Utilities Commission Reimbursement Account*
19 *(PUCRA) Surcharge.*

20 *(H) The Universal Lifeline Telephone Service (ULTS) Surcharge.*

21 *(I) Any 911 tax, fee, or surcharge.*

22 *(J) Any local utility users tax imposed by a local government.*

23 *(2) For purposes of this section, “prepaid communications”*
24 *includes both prepaid calling card telephone service and prepaid*
25 *wireless service.*

26 *(c) The Public Utilities Commission shall provide notification*
27 *of, and an invitation to participate in, the interested parties process*
28 *established in this section to interested parties, including, but not*
29 *limited to, a representative or representatives of all of the*
30 *following:*

31 *(1) The State Board of Equalization.*

32 *(2) The State Chief Information Officer.*

33 *(3) The Controller.*

34 *(4) The Department of Finance.*

35 *(5) Local governments.*

36 *(6) Local law enforcement agencies.*

37 *(7) The wireless, wireline, and cable communications industries,*
38 *including the CTIA-The Wireless Association, the California*
39 *Communications Association, and the California Cable and*
40 *Telecommunications Association.*

1 (8) *Taxpayers and general industry, including the California*
2 *Taxpayers' Association and the California Chamber of Commerce.*

3 (9) *The retail industry, including the California Retailers*
4 *Association.*

5 (10) *Consumer representatives and consumer advocacy*
6 *organizations, including the Utility Reform Network and the*
7 *Division of Ratepayer Advocates.*

8 (11) *Any other public or private entities as deemed appropriate*
9 *by the Public Utilities Commission.*

10 (d) *The interested parties process and development of*
11 *recommendations shall include, but shall not be limited to,*
12 *consideration of all of the following:*

13 (1) *The mechanism for collection of communications taxes, fees,*
14 *and surcharges.*

15 (2) *The point of collection of communications taxes, fees, and*
16 *surcharges.*

17 (3) *The appropriate entity or entities to collect the*
18 *communications taxes, fees, and surcharges and distribute the*
19 *revenues to the appropriate account.*

20 (4) *The costs of administration for state government, local*
21 *governments, and industry sectors.*

22 (5) *The date or dates on which the recommendations should*
23 *take effect.*

24 (e) (1) *A report to be submitted pursuant to subdivision (a)*
25 *shall be submitted in compliance with Section 9795 of the*
26 *Government Code.*

27 (2) *The requirement for submitting a report imposed under*
28 *subdivision (a) is inoperative on September 1, 2016, pursuant to*
29 *Section 10231.5 of the Government Code.*

30 ~~SECTION 1. (a) The Legislature finds and declares the~~
31 ~~following:~~

32 ~~(1) Maintaining effective and efficient 911 systems across the~~
33 ~~state benefits all citizens.~~

34 ~~(2) 911 fees imposed upon consumers of communications~~
35 ~~services that have the ability to dial 911 are an important funding~~
36 ~~mechanism to assist state and local governments with the~~
37 ~~deployment of enhanced 911 services to the citizens of this state.~~

38 ~~(3) Prepaid mobile telecommunications services are an important~~
39 ~~segment of the communications industry and should bear an~~

1 equitable part of the responsibility for the funding of the 911
2 system.

3 (4) ~~Consumers purchase prepaid mobile telecommunications~~
4 ~~services at a wide variety of retail locations and other distribution~~
5 ~~channels, as well as through service providers.~~

6 (5) ~~To ensure equitable contributions to the funding of 911~~
7 ~~systems from consumers of prepaid mobile telecommunications~~
8 ~~services, there should be clarity and standardization with respect~~
9 ~~to the collection and payment obligations of 911 surcharges for~~
10 ~~prepaid mobile telecommunications services.~~

11 (6) ~~Current law also requires several public purpose surcharges~~
12 ~~and user fees to be collected from end users and remitted to the~~
13 ~~Public Utilities Commission.~~

14 (7) ~~The Public Utilities Commission has the body of experience~~
15 ~~and comparative advantage over the State Board of Equalization~~
16 ~~regarding the collection of surcharges for prepaid communications~~
17 ~~services.~~

18 SEC. 2. ~~Section 41127.9 is added to the Revenue and Taxation~~
19 ~~Code, to read:~~

20 41127.9. (a) ~~The Public Utilities Commission shall open~~
21 ~~proceedings or expand the scope of existing proceedings to~~
22 ~~determine an equitable manner for collection of the surcharge from~~
23 ~~users of prepaid mobile telecommunications services. The~~
24 ~~commission shall advise the State Board of Equalization of its~~
25 ~~determination.~~

26 (b) ~~For purposes of this section, all of the following shall apply:~~

27 (1) ~~“Prepaid mobile telecommunications service” means a~~
28 ~~telecommunications service or product that must be paid for in~~
29 ~~advance that provides the right to utilize mobile~~
30 ~~telecommunications service and that is sold in predetermined units~~
31 ~~or dollars of which the number declines with use in a known~~
32 ~~amount.~~

33 (2) ~~“Mobile telecommunications service” means commercial~~
34 ~~mobile radio service, as defined in Section 20.3 of Title 47 of the~~
35 ~~Code of the Federal Regulations, as in effect on June 1, 1999.~~